

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF OKLAHOMA

1. DANIEL HOLDMAN, M.D. AND NES
OKLAHOMA, INC.,

Plaintiffs,

v.

1. ALLIED WORLD SPECIALTY INSURANCE
COMPANY F/K/A DARWIN NATIONAL
ASSURANCE COMPANY,

Defendant.

Case No.: 17-CV-199-SPS
JURY TRIAL DEMANDED

NOTICE OF REMOVAL

Defendant Allied World Specialty Insurance Company F/K/A Darwin National Assurance Company (“Allied”), under 28 U.S.C. § 1441(a) and (b), 28 U.S.C. § 1332, and L.Cv.R. 81.2 of the Local Rules of the United States for the Eastern District of Oklahoma, files this Notice of Removal.

1. Plaintiffs Daniel Holdman, M.D. and NES Oklahoma, Inc. (“Plaintiffs”) filed their Petition against Allied on April 20, 2017 in the District Court of LeFlore County, State of Oklahoma. The state court action is styled as *Daniel Holdman, M.D. and NES Oklahoma, Inc., Plaintiff, vs. Allied World Specialty Insurance, Company F/K/A/ Darwin National Assurance Company, Defendant*, Case No. CJ-17-80 (District Court of LeFlore County, State of Oklahoma). Allied, through receipt by the Oklahoma Insurance Department, was served with the Petition and Summons on or about May 9, 2017.

2. The following is a complete list of the process, pleadings, motions, and

orders served on Allied:

- a. Exhibit 1 – Petition;
- b. Exhibit 2 – Summons;

Also attached is a copy of the LeFlore County Docket Sheet, marked as Exhibit 3.

3. Plaintiffs’ Petition does not identify a cause of action. Plaintiffs’ Petition alleges Plaintiff Holdman was a defendant in a wrongful death action resulting from the death of a patient, Stephen Simmons. *See* Petition, at ¶ (8), Exhibit 1. The wrongful death lawsuit is styled *Patsy Frederick, individually and as next friend of Stephen J. Simmons, deceased, Plaintiff, vs. Dennis Carter, D.O. and Daniel Holdman, M.D., Defendants*, Case No. 13-259 (District Court of LeFlore County, State of Oklahoma) (the “wrongful death action”).

4. In this lawsuit, Plaintiffs allege the wrongful death action was resolved through a confidential settlement. *Id.* at ¶ (12). Plaintiffs further contend they were insureds under a liability policy issued by Allied by virtue of Plaintiff Holdman’s volunteer work in the ICU at Eastern Oklahoma Medical Center (EOMC) in the care of Stephen Simmons. *Id.* at ¶ (10). Plaintiffs seek (1) their defense costs in the wrongful death action which are alleged to total \$107,892.04, (2) the amount paid by Plaintiffs in a confidential settlement, and (3) interest, costs, attorney’s fees incurred in this lawsuit. Plaintiffs’ alleged damages against Allied exceed \$75,000.00. *Id.* at ¶ (12) and Prayer for Relief.

5. For purposes of diversity jurisdiction under 28 U.S.C. §1332, Allied is a citizen of the States of Delaware and New York. Allied is incorporated in the State of Delaware. *See* Delaware Division of Corporations, Entity Information Summary for

Allied, Exhibit 4. Allied's principle place of business in New York. *See* 2016 Annual Statement, at 1, Exhibit 5 (showing Main Administrative Office" for Allied in New York). Plaintiff Daniel Holdman, M.D. is a resident of Oklahoma. *See* Holdman's Answer, at ¶ III in wrongful death action, Exhibit 6. Plaintiff NES Oklahoma, Inc. is incorporated in Oklahoma, and its principle place of business is in Poteau, Oklahoma. *See* Oklahoma Certificate of Incorporation, Exhibit 7. Complete diversity is present, and the requirements for removal are fully met under 28 U.S.C. § 1332.

6. The removal of the state court action to this Court is timely and satisfies the requirements of 28 U.S.C. § 1446(b). This Notice is being filed within thirty (30) days after the Petition and Summons were served on May 9, 2017. *See* Summons, Exhibit 2.

7. Contemporaneous with the filing of this Notice of Removal, Allied is providing written notice of the filing to Plaintiffs, through their counsel, and will mail a copy of this Notice of Removal for filing in the District Court of LeFlore County, Oklahoma. A copy of Allied's Notice to Plaintiffs of Removal of Action to Federal Court is attached as Exhibit 8 (without exhibits).

Respectfully submitted,

RHODES, HIERONYMUS, JONES,
TUCKER & GABLE

By /s/ Kerry R. Lewis
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COMPANY

CERTIFICATE OF SERVICE

I certify that on the 26th day of May, 2016, I electronically transmitted the attached document to the Clerk of the Court using the ECF System for filing and transmittal of a Notice of Electronic Filing to the following ECF registrants:

REX TRAVIS
PAUL KOURI
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P.O. Box 1336
Oklahoma City, OK 73101-1336

/s/ Kerry R. Lewis
Kerry R. Lewis/Michael P. Robertson